

BR

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KC FILED
DEC 18 2007
DEC 18 2007
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

CHICAGO REGIONAL COUNCIL OF)
CARPENTERS PENSION FUND, CHICAGO)
REGIONAL COUNCIL OF CARPENTERS)
WELFARE FUND, the CHICAGO REGIONAL)
COUNCIL OF CARPENTERS APPRENTICE and)
TRAINEE PROGRAM FUND, and Their Trustees,)

CIVIL ACTION

Plaintiffs,)

Case No

v.)

BRONSON CONSTRUCTION, INC., D.A. GEORGE)
& SONS CONSTRUCTION, INC., GAP)
DEVELOPMENT, LLC, CURTISS STREET)
DEVELOPMENT, LLC.)

07CV7104

JUDGE COAR

Defendants.)

MAGISTRATE JUDGE ASHMAN

COMPLAINT

Plaintiffs, the CHICAGO REGIONAL COUNCIL OF CARPENTERS PENSION FUND, et al., by their attorney, Raymond J. Sanguinetti, complains of the Defendants, BRONSON CONSTRUCTION, INC., D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, as follows:

Alter-Ego Audit Refusal

1. This action arises under Section 502 of the Employee Retirement Income Security Act and Section 301 of the Taft-Hartley Act. (29 U.S.C. §§1132 and 185). Jurisdiction is founded on the existence of questions arising thereunder.

2. The CHICAGO REGIONAL COUNCIL OF CARPENTERS PENSION FUND, the CHICAGO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND and

the CHICAGO REGIONAL COUNCIL OF CARPENTERS APPRENTICE AND TRAINEE PROGRAM ("Trust Funds") receive contributions from numerous employers pursuant to Collective Bargaining Agreements between the employers and the CHICAGO REGIONAL COUNCIL OF CARPENTERS, successor of the CHICAGO AND NORTHEAST ILLINOIS DISTRICT COUNCIL OF CARPENTERS, ("Union"), and therefore, are multiemployer plans. (29 U.S.C. §1002). The Trust Funds are administered at 12 East Erie, Chicago, Illinois and venue is proper in the Northern District of Illinois.

3. BRONSON CONSTRUCTION, INC. is an employer engaged in an industry affecting commerce which entered into an Agreement with the Carpenters Union whereby it agreed to be bound by a Collective Bargaining Agreement or Agreements whose terms require Defendant to pay fringe benefits to the Trust Funds.

4. The Agreement and the Collective Bargaining Agreements also bind the BRONSON CONSTRUCTION, INC. to the provisions of the Agreement and Declarations of Trust which created the Trust Funds ("Trust Agreements").

5. BRONSON CONSTRUCTION, INC. is required to make contributions to the Trust Funds for each hour worked by its carpenter employees at the rate and in the manner specified in the Collective Bargaining Agreements and Trust Agreements. In addition, the Defendant is required to make contributions to the Trust Funds measured by the hours worked by subcontractors that are not signatory to a Collective Bargaining Agreement with the Union.

6. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreements, BRONSON CONSTRUCTION, INC. is required to provide access to the records necessary for the Trust Funds to determine whether there has been compliance with the obligation to contribute to the Trust Funds.

7. The Trust Funds sought to conduct an audit of BRONSON CONSTRUCTION, INC. books and records for the period of July 2006 through the present, but were only able to complete a preliminary audit of the books and records when the auditors discovered possible related companies D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC. A request was made to review the books and records of D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC for the same time period, but the request was denied.

8. That D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC. are related to BRONSON CONSTRUCTION, INC. and performs bargaining unit work.

9. That D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC. are disguised continuances of BRONSON CONSTRUCTION, INC. and/or participated with BRONSON CONSTRUCTION, INC. in avoiding its Trust Fund obligations.

10. That D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC are alter egos of BRONSON CONSTRUCTION, INC. or are bound to the Collective Bargaining Agreement under a single or joint employer theory. As such, plaintiffs are entitled to compliance from D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC to the terms of the Collective Bargaining Agreement and Trust Agreements.

11. The Defendants breached the provisions of the Collective Bargaining Agreement by failing to allow Plaintiffs to complete an audit of Defendant's books and

records for the period July 2006 through the present after demand for audit was made upon Defendants.

12. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreements, the Defendants are required to pay liquidated damages, auditor fees and all attorney fees and court costs incurred by the Trust Funds in the collection process.

13. Plaintiffs have complied with all conditions precedent in bringing this suit.

14. Plaintiffs have been required to employ the undersigned attorneys to compel the audit of the Defendant's books and records and collect the monies that may be found to be due and owing.

15. Defendant is obligated to pay the attorney fees and court costs incurred by the Plaintiffs pursuant to 29 U.S.C. §1132(g)(2)(D).

16. Pursuant to 29 U.S.C. §1132(g)(2)(B), Plaintiffs are entitled to an amount equal to the greater of:

- (a) double interest; or
- (b) interest plus liquidated damages.

WHEREFORE, Plaintiffs pray:

- A. That the Defendants, D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, be required to provide access to their records within three (3) days for the period of July 2006 through the present so that the audit can be completed.
- B. That the Court finds that the Defendants, D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, be held jointly and severally liable as alter-ego entities with BRONSON CONSTRUCTION, INC. and as

such, be required to pay all contributions shown to be owed after the completion of the audit.

- C. That the Defendants, BRONSON CONSTRUCTION, INC., D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, be ordered to pay interest on the amount that is due pursuant to 29 U.S.C. §1132(g)(2)(B).
- D. That the Defendants, BRONSON CONSTRUCTION, INC., D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, be ordered to pay interest or liquidated damages on the amount that is due pursuant to 29 U.S.C. §1132(g)(2)(C).
- E. That the Defendants, BRONSON CONSTRUCTION, INC., D.A. GEORGE & SONS CONSTRUCTION, INC., GAP DEVELOPMENT, LLC, and CURTISS STREET DEVELOPMENT, LLC, , be ordered to pay the reasonable attorney fees and costs incurred by the Plaintiffs. 29 U.S.C. §1132.
- F. That Plaintiffs have such other and further relief as by the Court may be deemed just and equitable all at the Defendants' cost.

CHICAGO REGIONAL COUNCIL OF
CARPENTERS PENSION FUND, et al.

By: 

RAYMOND J. SANGUINETTI

Attorney for Plaintiff
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
(312) 251-9700

Memorandum of Agreement

Employer Bronson Construction, Inc. Address 138 N. Cass Avenue
 City Westmont State IL Zip 60559 Phone 630-963-3150

THIS AGREEMENT is entered into between the Chicago Regional Council of Carpenters ("Union") and the Employer, including its successors and assigns covering the geographic jurisdiction of the Union including the following counties in Illinois: Boone, Bureau, Carroll, Cook, De Kalb, DuPage, Grundy, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Lake, La Salle, Lee, Marshall, McHenry, Mercer, Ogle, Putnam, Rock Island, Stark, Stephenson, Whiteside, Will, Winnebago. The following counties in Iowa: Allamakee, Appanoose, Benton, Black Hawk, Bremer, Buchanan, Butler, Cedar, Cerro Gordo, Chickasaw, Clayton, Clinton, Davis, Delaware, Des Moines, Dubuque, Fayette, Floyd, Franklin, Grundy, Hancock, Henry, Howard, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Mahaska, Mitchell, Monroe, Muscatine, Scott, Tama, Van Buren, Wapello, Washington, Wayne, Winnebago, Winneshick, Worth, Wright. The following counties in Wisconsin: Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha. The Union and the Employer do hereby agree to the following:

1. The Employer recognizes the Union as the sole and exclusive bargaining representative on behalf of its employees who are working within the territorial and occupational jurisdiction of the Union.
2. The Employer has reviewed sufficient evidence and is satisfied that the Union is the exclusive bargaining representative of a majority of its employees presently working within the territorial and occupational jurisdiction of the Union.
3. The Employer and the Union agree to incorporate into this Memorandum Agreement and to be bound by the Agreements negotiated between the Chicago Regional Council of Carpenters and various employers and employer associations, including all Area Agreements for the period beginning with the execution of this Memorandum Agreement and ending on the expiration dates of any current and successor Agreements which are incorporated herein (see attached list). Unless the Employer provides written notice by certified mail to the Chicago Regional Council of its desire to terminate or modify the Agreement at least three (3) calendar months prior to the expiration of such Agreements, the Agreement shall continue in full force and effect through the full term and duration of all subsequent Agreements which are incorporated by reference.
4. The Employer agrees to be bound to the terms of the various Trust Agreements to which contributions are required to be made under the Agreements incorporated in Paragraph 3, including all rules and regulations adopted by the Trustees of each Fund.

In Witness Whereof the parties have executed this Memorandum of Agreement on this 24th day of July, 2006.

EMPLOYER


DAVID A. GEORGE PRES.
 Print Name and Title

CHICAGO REGIONAL COUNCIL
 OF CARPENTERS


 Authorized Regional Council
 Representative

(Central Region)

Mid American Regional Bargaining Association, Cook, Lake and DuPage
 Mid American Regional Bargaining Association, Kane, Kendall and McHenry
 Mid American Regional Bargaining Association, Will
 Kankakee Contractors Association
 Residential Construction Employers Council, Cook, Lake and DuPage
 Residential Construction Employers Council, Will
 Residential Construction Employers Council, Grundy
 Woodworkers Association of Chicago (Mill-Cabinet)

(Western Region)

Illinois

Quad City Builders Association, Commercial, Rock Island Mercer, Henry and Henderson
 Floor Covering, Rock Island, Mercer, Henry and Henderson
 Residential, Henry, Mercer and Henderson
 Illinois Valley Contractors' Association, Bureau, LaSalle, Marshall, Putnam and Stark
 Window and Door, Boone, Bureau, Carroll, DeKalb, Henderson, Henry, Jo Daviess, LaSalle, Marshall,
 Mercer, Ogle, Putnam, Rock Island, Stark, Stephenson, Whiteside and Winnebago
 Commercial/Residential, DeKalb, Eastern Ogle and cities in Sandwhich and Somonauk
 - Residential Construction Employers' Council, DeKalb, Eastern Ogle and cities in Sandwhich and
 Somonauk
 Residential Construction Employers' Council, Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson,
 Whiteside and Winnebago
 Northern Illinois Building Contractors Association Inc., Boone, Carroll, Jo Davies, Lee, Ogle,
 Stephenson, Whiteside and Winnebago
 Floor Covering, Boone, Carroll, DeKalb, Jo Daviess, Lee, Lee, Ogle, Stephenson, Whiteside and
 Winnebago
 Millwright, Boone, Bureau, Carroll, DeKalb, Henderson, Jo Daviss, LaSalle, Lee, Marshall, Mercer,
 Ogle, Putnam, Rock Island, Stark, Stephenson, Whiteside, and Winnebago
 Associated General Contractors of Illinois (Heavy and Highway) Highway Districts 2-7 and portions of
 1 and 8

Iowa

Commercial, Muscatine, Scott, Louisa north of Iowa River
 Floorcovering, Lousia north of Iowa River, Muscatine and Scott
 Residential, Clinton, Louisa, Muscatine, Scott and Seven southern most townships of Jackson County
 including Monmouth, South Fork, Maquoketa, Fairfield, Van Buren, Iowa and Union
 Heavy and Highway Associated Contractors Agreement Scott County
 - Herberger Construction Heavy and Highway
 Heavy and Highway Contractors' Association- entire State except Scott County
 Commercial Benton, Jones, Linn and Tama
 Residential Benton, Jones, Linn and Tama
 Commercial, Des Moines, Henry, Lee and Louisa south of Iowa River
 Residential, Des Moines, Henry, Lee and Louisa south of Iowa River

Commercial/Residential Dubuque, Delaware, Clayton, and Six Northern Townships in Jackson
Commercial/Residential, Appanoosa, Davis, Jefferson, Keokuk, Mahaska, Monroe, Van Buren,
Wapello, and Wayne

Commercial, Clinton, Seven Southern most townships of Jackson including Monmouth, South Fork,
Maquoketa, Fairfield, Van Buren, Iowa, and Union

Floor Covering, Dubuque, Delaware, Clayton, and six Northern Townships in Jackson Window and
Door, State

Commercial, Cedar, Iowa, Johnson, Poweshiek and Washington

Commercial Interior Systems, Cedar, Iowa, Johnson, Poweshiek and Washington

Residential, Cedar, Iowa, Johnson, Poweshiek and Washington

Commercial, Cerro Gordo, Franklin, Hancock, Kossuth, Winnebago, Worth and Wright, Buchanan,
Independent Contractors of Waterloo (Commercial) Butler, Chicksaw, Fayette, Floyd, Grundy, Howard,
Mitchell, Winneshiek

Millwright, Adair, Allmakee, Appanoosa, Benton, Black Hawk, Boone, Bremer, Buchanan, Butler,
Cedar, Calhoun, Carroll, Cerro Gordo, Chicksaw, Clayton, Clarke, Clinton, Dallas, Davis, Decatur,
Delaware, Des Moines, Dubuque, Emmet, Fayette, Floyd, Franklin, Greene, Grundy, Guthrie, Hamilton,
Hancock, Hardin, Henry, Howard, Humboldt, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk,
Lee, Linn, Lucas, Louisa, Madison, Mahaska, Marion, Marshall, Mitchell, Monroe, Muscatine, Palo
Alto, Pocahontas, Polk, Poweshiek, Ringhold, Scott, Story, Tama, Union, Van Buren, Warren, Wapello,
Washington, Wayne, Webster, Winnebago, Winneshiek, Worth, Wright

(Northern Region)

Commercial Carpenters and Floor Coverers' Agreement (Wisconsin)

Commercial Capenters Agreement, Kenosha/Racine

Millwright Erectors' Agreement

Pile Drivers' Agreement

Insulators Agreement

Overhead Door Agreement

The Employers Acknowledges receipt of a current copy of each agreement under which the company
will be performing work. Each of the agreements are available upon request

It is also understood and agreed that it is the Employers obligation to make a written request of
additional Collective Bargaining Agreement(s) in the event that the Company performs work in areas for
which it has not already obtained a copy of the applicable Agreement.


Employer

7/31/06
Date